

1 on several different projects, at stations that I have been
2 at, and we never had a written agreement.

3 JUDGE LUTON: Well, you don't believe that a
4 written agreement is necessary. If you were going to follow
5 or require RDG to follow something like this schedule that I
6 rejected here, it would be meaningless wouldn't it if I -- I
7 mean, this really tells me nothing.

8 You don't have a written agreement, and this is
9 just somebody saying here is what we will do.

10 MR. INMAN: No, sir. If he can't follow that
11 agreement, then --

12 JUDGE LUTON: What agreement?

13 MR. INMAN: I mean, this schedule, excuse me. If
14 he can't follow that schedule and follow it on time, then I
15 will bring somebody else in to do it.

16 JUDGE LUTON: Well, there is no schedule as far as
17 I can see. You have indicated what your plans are when you
18 get out of here, but there is no statement of a schedule for
19 completion, and it may be your intention for RDG to complete
20 its work in a certain time, but there is nothing that
21 requires it, is there?

22 MR. INMAN: I am the person that requires it.

23 JUDGE LUTON: Okay.

24 MR. INMAN: I have been in the broadcast
25 business --

1 JUDGE LUTON: There is no paper that requires it.
2 There is no document on which you can sue, for example, RDG,
3 in the event that it doesn't perform as you expect is there?

4 MR. INMAN: I don't intend for it to get to the
5 point of --

6 JUDGE LUTON: But you never know do you?

7 MR. INMAN: You offset that by hiring someone else
8 to do the job if they can't do the job. But this guy has
9 never let me down before.

10 JUDGE LUTON: All right. You may step down, Mr.
11 Inman. Mr. Schult, would you take the stand? We are going
12 to ask you some questions.

13 Whereupon,

14 DAIN L. SCHULT

15 was called as a witness, and having been first
16 duly sworn, was examined and testified as follows:

17 MR. ZAUNER: Your Honor, before we begin, once
18 again, I'm just not sure. Did you swear Mr. Inman?

19 JUDGE LUTON: Yes, I did.

20 MR. ZAUNER: Okay.

21 JUDGE LUTON: And I've just sworn Mr. Schult.

22 MR. ZAUNER: Yes, I just saw that.

23 JUDGE LUTON: I think Mr. Schult's testimony is
24 primarily wanted in connection with the July 18, 1996
25 letter, and the July 29th, 1996 letters that he wrote, and

1 that I can be received in evidence.

2 The Court can't really limit the cross-examination
3 just to those two matters because Mr. Inman invoked the name
4 of Mr. Schult in some other contexts as well. And I can't
5 remember what they were, but it doesn't matter. If you have
6 questions about those areas, as well as the two letters,
7 proceed.

8 DIRECT EXAMINATION

9 BY MR. BERLIN:

10 Q All right. I just have really a few questions. I
11 am not going to ask actually about the terms or the amount
12 of the loan, because in your July 29th letter you really --
13 you do state it in there.

14 But in that letter you say that it is anticipated
15 that the first of a series of funding disbursements to
16 Texrock will occur by the third week of August, in about a
17 week, allowing the company to proceed with its proposed
18 funding with AJI.

19 So from this, do I understand that you don't have
20 the funds yourself on hand?

21 A At this point today, no.

22 Q Do you have -- what kind of assurance do you have
23 from another entity that you will get those funds?

24 A Well, I did attach a copy of the commitment letter
25 that I received from RJ Financial, Incorporated, which is

1 serving as the primary funder to Texrock.

2 Additionally, I have also begun negotiation and
3 have a verbal commitment for some bridge money that would be
4 an additional loan of a hundred-thousand dollars that should
5 be wire transferred as of Monday, this coming Monday. And I
6 have brought some of that with me, too, in case somebody
7 wanted to look at that.

8 Q Well, the letter that was attached initially last
9 time to your fax was rejected as hearsay since there is no
10 one here to substantiate that letter. So, what we are
11 really left with is just your letter, and then nothing to
12 it.

13 So, you said that you don't have the funds
14 yourself on hand, and we don't have any letter in the record
15 at this point, or offered that says that we are going to get
16 those funds; is that correct?

17 A Yes.

18 JUDGE LUTON: But Mr. Schult can certainly tell
19 us, and just because there isn't a paper there with a
20 witness on the stand, I am not going to prevent him from
21 telling us where Texrock can get those funds from. That
22 wouldn't make sense.

23 BY MR. BERLIN:

24 Q All right. Then please proceed.

25 A I'd be happy to. Just to put it in context, I

1 have been involved with my own consulting business for a
2 number of years and have been looking to form a company that
3 would own and operate stations in Texas.

4 And to that effect my search for funds somewhat
5 parallels Mr. Inman's, in the sense that we both have been
6 out searching, albeit on my case a little bit larger sum of
7 money than him for one individual station.

8 Over the course of time I was introduced to
9 several different loan brokers who have introduced me to RJ
10 Financial. This is a primary funding source that is based
11 here in the United States, and is in a position via its
12 contact with trust funds to provide funding.

13 And under the circumstances I have met with the
14 principal, Rob Stevens, who is the president. I in fact met
15 with him just two weeks ago. The idea being that this would
16 be a timed payout as far as funds that will be used to
17 acquire stations and to be used for other sources via
18 Texrock Radio, Inc.

19 The first payment is to begin on either August the
20 21st through August the 30th. The first disbursement fee
21 would be a payment to Texrock for \$500,000. And in addition
22 to that, I have entered into a verbal agreement, and I have
23 the documentation, although I don't have it executed from
24 the other party yet, for an additional \$100,000, which would
25 be bridge money.

1 And as I said earlier that will be due on Monday,
2 this coming Monday. That's coming from an investment banker
3 by the name of Dan Hodges who is based in Tucson, Arizona.
4 I didn't bring everyone here as a witness today. I'm sorry.

5 Q Is Mr. Inman's station the only one that you are
6 going to be providing funding for?

7 A In the context of loaning money to AJI, yes. In
8 other instances, we are looking at obviously acquiring
9 stations, and we are building a group out there in Texas.

10 Q So you said that you are going to be getting
11 \$500,000, plus another \$100,000 that is bridge money?

12 A That's correct.

13 Q So, that is \$600,000 then, and you said in your
14 letter that you would be providing \$200,000 for AJI?

15 A Up to, yes.

16 Q Up to. My question is how much money has been
17 committed to other ventures?

18 A Ultimately, the pay schedule that has been set up
19 is that it is going to be over a period of time. There will
20 be incremental disbursements from RJ Financial to TexRock.
21 The aggregate of that is going to be \$21,340,000; which was
22 my original proposal to them to acquire a number of
23 stations.

24 So, this isn't just a one-shot proposition here.
25 This is a long term, let's go buy existing stations policy,

1 and build a group.

2 Q Do you recall when you and Mr. Inman first met?

3 A That was by telephone, and after hearing what had
4 happened earlier in his testimony, to the best of my
5 recollection it was at the beginning of the end of May, and
6 we had phone conversations that stretched on leading to the
7 two personal meetings that we had in Atlanta, culminating,
8 of course, with today's visit.

9 Q At that time did he mention that the license had
10 been designated for a hearing?

11 A Yes, he had. There was no misrepresentation.
12 There was a clear indication that something may go awry, and
13 the whole thing may go away. So, I was never left with any
14 false impression that this was a slam dunk, easy done deal
15 or anything like that.

16 Q Getting back for a minute to the -- you were
17 talking about \$21 million, I believe?

18 A That's the aggregate.

19 Q Or ultimately that you would be --

20 A That is correct.

21 Q The thing that we're really concerned with about
22 here is that there is going to be enough money for this
23 station, and you have -- you just stated that there is
24 ultimately going to be \$21 million of money available, or
25 money that would be spent.

1 And what kind of assurance can you give that the
2 money for Mr. Inman would be available immediately?

3 A As far as the \$200,000, obviously with \$600,000 by
4 the end of this month, I don't think it is inappropriate
5 or -- well, I'm stepping out of bounds to say that that
6 \$200,000 out of the \$600,000 would be available.

7 I mean, quite frankly the game plan that I
8 envision here is going out and calling on station owners.
9 And there has been some preliminary conversation.
10 Obviously, I am not in a position to ask or try to induce
11 anyone to sign a letter of intent, or an asset purchase
12 agreement, until I have some funds to be able to start
13 making escrow payments.

14 So, realistically, what I had envisioned here was
15 having the capital available to help Mr. Inman in his
16 project, and at the same time have the necessary money to at
17 least make some kind of good faith deposit on the basis of
18 \$20,000 to \$25,000 per station deal with the existing
19 stations.

20 So, at this point, the capital would be available
21 immediately upon funding to be able to assist him, and to
22 get this station up and on the air. And considering that I
23 have personal hands-on experience in putting FM stations on
24 the air, both in Avon, Colorado, and Fort Wayne, Indiana, I
25 feel like I am in a position to be able to assist Mr. Inman

1 in that respect also.

2 Q Do you have any other commitments that you are
3 going to have to do immediately with the \$600,000?

4 A No, sir.

5 MR. BERLIN: I have no more questions.

6 JUDGE LUTON: All right. Thank you, Mr. Schult.
7 you may step down.

8 THE WITNESS: Thank you.

9 JUDGE LUTON: All right. Mr. Inman, I believe
10 that completes AJI's case in this proceeding; is that right?

11 MR. INMAN: Yes, sir.

12 JUDGE LUTON: You have no more to present?

13 MR. INMAN: No, sir.

14 JUDGE LUTON: Okay. Then I will close the record,
15 and the record is closed. I am going to ask the parties to
16 submit to me proposed findings of fact, and conclusions of
17 law. The Bureau knows what that is, Mr. Inman. You may --

18 MR. INMAN: I certainly don't.

19 JUDGE LUTON: Okay. You may want to contact the
20 Bureau, as you have before, and I'm sure that they will be
21 happy to give you some guidance. What I am looking for
22 really is a statement of decision that you believe ought to
23 be rendered in this case.

24 MR. INMAN: What did you call that again, Your
25 Honor?

1 JUDGE LUTON: Proposed Findings of Fact and
2 Conclusions of Law. There should be a statement of the
3 facts that we are dealing with as shown by the evidence that
4 has been received. It is not a free form thing where you
5 are permitted to say anything that comes into your mind.

6 But take a look at the evidence that has come into
7 the record, and that has been AJI's Exhibit 1, and it has
8 been the Bureau's Exhibit 1, and the testimony, the oral
9 testimony.

10 That constitutes the evidence in the case, and sum
11 up that evidence, and take that evidence and lay it out, and
12 sum it up, and those are proposed findings of fact. Those
13 would be -- well, that would be a statement of the facts as
14 you would hope that I would find them to be.

15 And that would be followed by conclusions of law;
16 that is to say the conclusions that you think the law and
17 regulations require me to make on the basis of the facts
18 that have been presented in the case.

19 And with respect to the ultimate issues in the
20 case, capability and intent to expeditiously resume service,
21 whether or not there has been a violation of various rules,
22 and those would be addressed in the conclusions portion.
23 Facts, as well as conclusions. Tell me what you think about
24 those, and what I ought to find about those, the ultimate
25 issues.

1 That's what's important. I mean, keep your eye on
2 the ball, and it is the ultimate issues that are going to
3 decide or going to determine whether AJI is going to have a
4 chance to get on the air or not, or get on the air.

5 Mr. Berlin, if Mr. Schult, or Mr. Inman needs
6 help, it's okay for him to ask you about that. Not with
7 detail, but -- you know, unless you want to give him detail.

8 MR. BERLIN: That's fine.

9 MR. INMAN: Yes, sir.

10 JUDGE LUTON: Okay. Here we are August the 14th.
11 This is a small case. How about September 24th? That's
12 more than a month for submitting proposed findings. Is that
13 all right with the Bureau?

14 MR. BERLIN: That's fine.

15 JUDGE LUTON: Is that satisfactory?

16 MR. INMAN: Yes, Your Honor.

17 JUDGE LUTON: Okay. September 24th for proposed
18 findings, and two weeks after that, I am going to ask for a
19 reply of proposed findings. That would be the 8th of
20 October, and a reply of proposed findings, Mr. Inman, would
21 be to correct -- an opportunity for AJI to correct errors
22 that the Bureau may have made in its submission of proposed
23 findings of fact.

24 MR. INMAN: In other words, to respond to their
25 proposed --

1 JUDGE LUTON: That's correct. That's correct.

2 MR. INMAN: Yes, sir, I understand.

3 JUDGE LUTON: Of course, the Bureau doesn't make
4 errors.

5 MR. INMAN: I understand.

6 JUDGE LUTON: All right. Is there anything else
7 this morning?

8 MR. BERLIN: Yes, Your Honor. I wanted to get a
9 clarification.

10 JUDGE LUTON: Okay.

11 MR. BERLIN: At our first hearing on July 30th,
12 you had indicated that you weren't going to allow in Mr.
13 Schult's first letter. Is that still the case? I'm
14 unclear.

15 JUDGE LUTON: This is the one in which -- in which
16 it didn't say anything?

17 MR. BERLIN: Yes.

18 JUDGE LUTON: I've got it here.

19 MR. BERLIN: That his July 29th letter says
20 significantly more.

21 JUDGE LUTON: Well, a bare bones letter without a
22 witness sitting here available to be examined on it is one
23 thing, but a bare bones letter with a witness sitting here
24 available to be examined about it is quite another. You are
25 talking about the July 18th letter?

1 MR. BERLIN: That's correct.

2 JUDGE LUTON: Which is, "Please accept this as an
3 acknowledgement of the negotiations that we have had and
4 agreements that we have reached," blah, blah. Now, the fact
5 that no questions specifically on that letter were asked of
6 Mr. Schult, that doesn't mean that I ought to exclude the
7 letter if Mr. Schult was here prepared presumably to respond
8 to any questions that might have been put to him concerning
9 that letter.

10 By itself, it is difficult for me to see any
11 evidentiary value here even after Mr. Schult had been on the
12 stand, and having been questioned, it is still difficult for
13 me to see any evidentiary value. Maybe I will find some
14 when I take a look again. I am going to receive the letter.
15 Is there anything else?

16 MR. BERLIN: No.

17 JUDGE LUTON: Then we will be in recess. Thank
18 you very much.

19 (Whereupon, at 11:00 a.m., the hearing was
20 closed.)

21 //

22 //

23 //

24 //

25 //

REPORTER'S CERTIFICATE

FCC DOCKET NO.: 96-92

CASE TITLE: AJI BROADCASTING

HEARING DATE: August 14, 1996

LOCATION: Washington, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.

Date: _08/14/96_

Official Reporter
Heritage Reporting Corporation
1220 "L" Street, N.W.
Washington, D.C. 20005
Raymond P. Freson

TRANSCRIBER'S CERTIFICATE

I hereby certify that the proceedings and evidence were fully and accurately transcribed from the tapes and notes provided by the above named reporter in the above case before the Federal Communications Commission.

Date: _08/20/96_

Official Transcriber
Heritage Reporting Corporation
Paul Intravia

PROOFREADER'S CERTIFICATE

I hereby certify that the transcript of the proceedings and evidence in the above referenced case that was held before the Federal Communications Commission was proofread on the date specified below.

Date: _08/23/96_

Official Proofreader
Heritage Reporting Corporation
Don R. Jennings

Heritage Reporting Corporation
(202) 628-4888